

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 9557

IN THE MATTER OF:

Served May 12, 2006

Application of AERO TRANSPORTATION, )	Case No. AP-2005-193
INC., for a Certificate of )	
Authority -- Irregular Route )	
Operations )	

Applicant seeks a certificate of authority to transport passengers in irregular route operations between points in the Metropolitan District. The application is unopposed.

This is the second application filed by this applicant. Applicant initially applied for operating authority last August, but the application was dismissed without prejudice for want of prosecution.<sup>1</sup>

Applicant's president, McKinly Williams, is also the president and owner of Nova Limousine Service, Inc., (Nova) WMATC Carrier No. 466.

Applications for certificates of authority are governed by Title II of the Compact, Article XI, Section 7. Applications for approval of common control are governed by Article XII, Section 3.

**I. CERTIFICATE OF AUTHORITY**

Article XI, Section 7(a), authorizes the Commission to issue a certificate of authority if it finds that the proposed transportation is consistent with the public interest and that the applicant is fit, willing, and able to perform the proposed transportation properly, conform to the provisions of the Compact, and conform to the rules, regulations, and requirements of the Commission.

Applicant proposes commencing operations with one minibus. Applicant's proposed tariff contains hourly group charter rates.

Applicant verifies that: (1) applicant owns or leases, or has the means to acquire through ownership or lease, one or more motor vehicles meeting the Commission's safety requirements and suitable for the transportation proposed in this application; (2) applicant owns, or

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<sup>1</sup> In re Aero Transportation, Inc., No. AP-05-133, Order No. 9073 (Oct. 21, 2005).

has the means to acquire, a motor vehicle liability insurance policy that provides the minimum amount of coverage required by Commission regulations; and (3) applicant has access to, is familiar with and will comply with the Compact, the Commission's rules, regulations and orders, and Federal Motor Carrier Safety Regulations as they pertain to transportation of passengers for hire.

Based on the evidence in this record, the Commission finds that the proposed transportation is consistent with the public interest and that applicant is fit, willing, and able to perform the proposed transportation properly, conform to the provisions of the Compact, and conform to the rules, regulations, and requirements of the Commission.

## II. COMMON CONTROL

Article XII, Section 3(a)(iii), of the Compact states that a carrier or any person controlling, controlled by, or under common control with a carrier shall obtain Commission approval to acquire control of another carrier that operates in the Metropolitan District through ownership of its stock or other means. Approval may be granted if the Commission finds the acquisition is consistent with the public interest.<sup>2</sup> The public interest analysis focuses on the fitness of the acquiring party, the resulting competitive balance, and the interest of affected employees.<sup>3</sup>

The Commission has uniformly approved common control in the past where, as here, the owner of an existing WMATC carrier decides to expand service in the Metropolitan District through a newly created entity.<sup>4</sup> In such cases the Commission has held that the controlling party is entitled to a presumption of fitness, that expansion of service through a newly created entity does not raise competition concerns, and that the interests of affected employees are not at issue where an applicant has no prior operations.<sup>5</sup>

Each carrier is admonished to keep its assets, books, finances and operations completely separate from the other's. Sharing of office space will be allowed, but this should not be construed as permission to share revenue vehicles or operating authority.<sup>6</sup>

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<sup>2</sup> Compact, tit. II, art. XII, § 3(c).

<sup>3</sup> Act of Sept. 15, 1960, Pub. L. No. 86-794, § 3, 74 Stat. 1031, 1050 (1960) (codified at DC CODE ANN. § 9-1103.04 (2005)); *In re Cavalier Transp. Co., Inc., t/a Tourtime America, Ltd., & Tourtime America Motorcoach, Ltd.*, No. AP-96-21, Order No. 4926 (Sept. 12, 1996).

<sup>4</sup> *In re Capital City Coach, Inc.*, No. AP-05-32, Order No. 8752 (June 1, 2005).

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

THEREFORE, IT IS ORDERED:

1. That upon applicant's timely compliance with the requirements of this order, Certificate of Authority No. 1217 shall be issued to Aero Transportation, Inc., 5405 19th Avenue, Hyattsville, MD 20782.

2. That applicant may not transport passengers for hire between points in the Metropolitan District pursuant to this order unless and until a certificate of authority has been issued in accordance with the preceding paragraph.

3. That applicant is hereby directed to present its revenue vehicle(s) for inspection and file the following documents within the 180-day maximum permitted in Commission Regulation No. 66: (a) evidence of insurance pursuant to Commission Regulation No. 58 and Order No. 4203; (b) an original and four copies of a tariff or tariffs in accordance with Commission Regulation No. 55; (c) a vehicle list stating the year, make, model, serial number, fleet number, license plate number (with jurisdiction) and seating capacity of each vehicle to be used in revenue operations; (d) a copy of the for-hire vehicle registration card, and a lease as required by Commission Regulation No. 62 if applicant is not the registered owner, for each vehicle to be used in revenue operations; and (e) proof of current safety inspection of said vehicle(s) by or on behalf of the United States Department of Transportation, the State of Maryland, the District of Columbia, or the Commonwealth of Virginia.

4. That the grant of authority herein shall be void and the application shall stand denied upon applicant's failure to timely satisfy the conditions of issuance prescribed herein.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS YATES, SMITH, AND CHRISTIE:



William S. Morrow, Jr.  
Executive Director

